

AMENDED IN ASSEMBLY JUNE 4, 2007  
AMENDED IN ASSEMBLY APRIL 11, 2007  
AMENDED IN ASSEMBLY FEBRUARY 21, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 70**

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**Introduced by Assembly Member Jones**

December 4, 2006

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An act to add Section 8307 to the Water Code, relating to flood liability.

LEGISLATIVE COUNSEL’S DIGEST

AB 70, as amended, Jones. Flood liability.

Existing law, under various circumstances, subjects a public entity or an employee of a public entity to liability for property damage or personal injury caused by or from floods or floodwaters.

This bill would ~~subject a local public entity to joint liability with the state~~ *provide that a city or county may be required to contribute its fair and reasonable share of the property damage caused by a flood to the extent that the local public entity increases the state’s exposure to liability for property damage by unreasonably approving new development in a previously undeveloped area, as defined, that is protected by a state flood control project and if it is determined that the city or county failed to comply with other applicable provisions of existing law.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 8307 is added to the Water Code, to read:*

2     8307. (a) *A city or county may be required to contribute its*  
3 *fair and reasonable share of the property damage caused by a*  
4 *flood to the extent that the city or county increases the state's*  
5 *exposure to liability for property damage by unreasonably*  
6 *approving new development in a previously undeveloped area that*  
7 *is protected by a state flood control project and if it is determined*  
8 *that the city or county failed to comply with other applicable*  
9 *provisions of existing law.*

10    (i) *For the purposes of this section:*

11    (1) *"State flood control project" means any flood control works*  
12 *within the Sacramento River Flood Control Project described in*  
13 *Section 8350, and of flood control projects in the Sacramento River*  
14 *and San Joaquin River watersheds authorized pursuant to Article*  
15 *2 (commencing with Section 12468) of Chapter 2 of Part 6 of*  
16 *Division 6.*

17    (2) *"Undeveloped area" means an area devoted to "agricultural*  
18 *use," as defined in Section 51201 of the Government Code, or*  
19 *"open space land," as defined in Section 65560 of the Government*  
20 *Code, which is not already designated for development in a general*  
21 *or specific plan or by a local zoning ordinance.*

22    ~~SECTION 1. The Legislature finds and declares that recent~~  
23 ~~court rulings have upheld liability on the part of the state under~~  
24 ~~theories of inverse condemnation caused by the failure of state~~  
25 ~~flood control projects.~~

26    ~~SEC. 2. Section 8307 is added to the Water Code, to read:~~

27    ~~8307. (a) Whether or not a local public entity directly~~  
28 ~~participates in the operation or maintenance of a state flood control~~  
29 ~~project, it is subject to joint liability with the state to the extent~~  
30 ~~that the local public entity increases the state's exposure to liability~~  
31 ~~for property damage by approving new development in a previously~~  
32 ~~undeveloped area that is protected by a state flood control project.~~

33    ~~(b) For the purposes of this section:~~

34    ~~(1) "State flood control project" means any flood control works~~  
35 ~~within the Sacramento River Flood Control Project described in~~  
36 ~~Section 8350, and of flood control projects in the Sacramento River~~  
37 ~~and San Joaquin River watersheds authorized pursuant to Article~~

1 ~~2 (commencing with Section 12648) of Chapter 2 of Part 6 of~~  
2 ~~Division 6.~~  
3 (2) ~~“Undeveloped area” means an area devoted to “agricultural~~  
4 ~~use,” as defined in Section 51201 of the Government Code, or~~  
5 ~~“open space land,” as defined in Section 65560 of the Government~~  
6 ~~Code.~~

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